

Applicant: Kenneth W. Whitley
Application No.: 10/666,357
Filing Date: September 19, 2003
Docket No.: P-5655/1 (102-478 RCE)
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REMARKS

Reconsideration of the application is respectfully requested.

Claims 1-7, 9-16 and 18-20 are in the application.

At the onset, the undersigned would like to thank the Examiner for courtesies extended during a personal interview conducted on October 4, 2007. Arguments presented during the interview are at least in part summarized herein.

In the Official Action, the Examiner rejected claims 1-5, 7, 9-15 and 18-20 under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. (U.S. Patent No. 4,912,048) in view of Keilman et al. (U.S. Patent No. 4,717,668) and further in view of Serkes et al. (U.S. Patent No. 4,962,033). The Examiner admitted that Smith et al. "does not expressly disclose that the ribs are integrally formed with the wall". To allegedly overcome this deficiency, the Examiner asserted that Keilman et al. discloses that "ribs are formed integrally with the remainder of the flexible cylindrical wall that defines the roller bottle." The Examiner further admitted that the hypothetical combination of Smith et al. and Keilman et al. does not "indicate that the rib includes an outer wall extending radially outwardly from the pleats in such a way that the rib outer wall is flush with the outermost portions of the pleats." The Examiner referred to elements 22, 24 in Fig. 2 in Serkes et al. for supposedly disclosing ribs which "include an outer wall extending outwardly from the pleats so that the rib outer wall is flush with the outermost portions (40) of the first apices of the pleats. The rib outer wall does not protrude from the first apices." The Examiner concluded that it would have been obvious to one skilled in the art to combine Smith et al., Keilman et al. and Serkes et al. as indicated.

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As discussed during the interview, element 64 in Fig. 4 of Smith et al. is an unpleated section of the container. Further, as shown in Fig. 4 of Smith et al., the unpleated section 64 defines an equal circumference about the container with the pleats 62.

Likewise, element 106 in Fig. 6 of Serkes et al. shows an unpleated section. As shown in Fig. 6, the unpleated section 106 terminates evenly with the circumference of the wall of the vessel, similar to the Smith et al. construction.

Both Smith et al. and Serkes et al. disclose pleated and unpleated sections of a container. Furthermore, in both Smith et al. and Serkes et al., the pleated and unpleated sections are disposed evenly on the circumference of a container, with no portion thereof extending from the container. In Smith et al., a collar 66, 68, as shown in Fig. 4, may be disposed on the circumference of the container to protrude radially outwardly therefrom.

It appears that the Examiner's position is that the unpleated section 106 of Serkes et al. is equivalent to a rib and, as such, Serkes et al. shows a rib having an outer wall which is flush with pleated sections of a container. The Examiner then concluded that it would have been obvious to make the collar 66, 68 of Smith et al. flush with the pleats 62 shown in Smith et al. The Examiner's assertions are respectfully traversed.

First, as noted above, the unpleated section 106 of Serkes et al. is structurally equivalent to the unpleated section 64 of Smith et al. Both unpleated sections terminate with the circumference of the vessel. Even combining the Smith et al. and Serkes et al. references, the resulting hypothetical combination does not provide for the collar 66, 68 in Smith et al. to be flush with the pleats. Rather, the pleated and unpleated sections will always be made even with

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the circumference of the container. In any hypothetical combination of Smith et al. and Serkes et al., the collar 66, 68 will protrude radially outwardly from the circumference of the container, including protruding radially outwardly from the pleated and unpleated sections.

Second, claim 1 requires the "rib being superimposed across said pleats". With the structure of claim 1, pleats are provided and at least one rib is provided which is superimposed across the pleats. The unpleated section 106 of Serkes et al. is not a rib superimposed across pleats. Rather, it is an unpleated section of a container. It is unclear how the collar 66, 68 can be modified in view of the unpleated section of Serkes et al.

Third, it is noted that claims 3 and 18 of the subject application are directed to unpleated sections of a container. Specifically, claim 3 states that "said cylindrical wall further includes at least one unpleated longitudinal section defining a drain panel", while claim 18, which depends from claim 3, states "wherein said rib is flush with outermost portions of said drain panel." With finding unpleated sections of containers to be equivalent to the claimed "rib", it is unclear as to what structure in Smith et al. or Serkes et al. corresponds to the unpleated sections as set forth in claims 3 and 18. Moreover, it is unclear as to where there is disclosure or suggestion for having an unpleated section flush with the outermost portions of the pleats, as set forth in claim 18. It is respectfully submitted that claims 1-5, 7, 9-15 and 18-20 are patentable over Smith et al., Keilman et al. and Serkes et al., each taken alone or in combination.

Claim 6 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. in view of Keilman et al., further in view of Serkes et al., and further in view of O'Connell (U.S. Patent No. 4,763,804). The Examiner admitted that the previous combination does not

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“expressly disclose that the neck portion includes a locking arrangement for holding a cap in a locked open position”. The Examiner relied on O’Connell for allegedly overcoming this deficiency.

O’Connell is directed to a closure. There is no discussion or disclosure in O’Connell of pleated containers and, thus, O’Connell does not overcome the deficiencies noted above of Smith et al., Keilman et al., and Serkes et al. It is respectfully submitted that claim 6, as depending from claim 1, is also patentable.

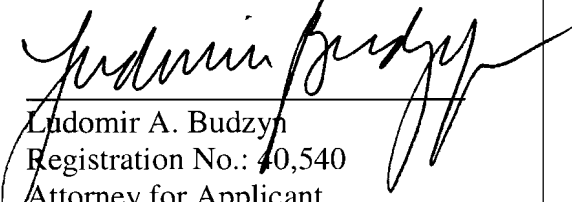
Claim 16 was rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Smith et al. in view of Keilman et al., further in view of Serkes et al., and further in view of Sugiura et al. (U.S. Patent No. 4,749,092). The Examiner relied on Sugiura et al. for allegedly disclosing an inwardly extending rib.

Claim 16 depends from claim 1. Sugiura et al. does not overcome the deficiencies noted above of Smith et al., Keilman et al., and Serkes et al. It is respectfully submitted that claim 16 is also patentable.

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Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examiner is respectfully requested to contact Applicant's attorney at the number listed below.

Respectfully submitted,



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